

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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TRACY HUNT,

Plaintiff,

v.

GOLDEN NUGGET HOTEL AND
CASINO LAKE TAHOE, *et. al.*,

Defendants.

Case No. 3:24-CV-00368-MMD-CLB

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE¹**

On August 16, 2024, the Court entered a minute order regarding the transfer of this case from the Central District of California. (ECF No. 11.) The Court mailed the minute order to Plaintiff's address as listed on the docket. On September 3, 2024, the document was returned as undeliverable. (ECF No. 12.) Mail previously sent by the Central District of California to the same address was also returned as undeliverable. (ECF No. 8.)

On September 4, 2024, the Court stayed the case and ordered the Plaintiff to file a notice of change of address by Monday, November 4, 2024. (ECF No. 13.) The Court mailed this document to Plaintiff's address as listed on the docket, which was returned as undeliverable on September 16, 2024. (ECF No. 14.)

Pursuant to Local Rule IA 3-1, a party must immediately file with the Court written notification of any change of mailing address. Thus, the Court directed Plaintiff to file a notice of change of address by November 4, 2024. (ECF No. 13.) Plaintiff was cautioned that the failure to comply with this Court's order would result in dismissal of this action. To date, Plaintiff has failed to comply with this Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . .

¹ This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4.

1 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
2 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
3 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
4 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
5 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
6 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856
7 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
8 pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
9 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
10 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
11 failure to comply with local rules).

12 In determining whether to dismiss an action for lack of prosecution, failure to obey
13 a court order, or failure to comply with local rules, the Court must consider several factors:
14 (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to
15 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
16 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
17 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
18 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

19 In the instant case, the Court finds that the first two factors, the public’s interest in
20 expeditiously resolving this litigation and the Court’s interest in managing the docket,
21 weigh in favor of dismissal. The third factor, risk of prejudice to defendants, also weighs
22 in favor of dismissal, since a presumption of injury arises from the occurrence of
23 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
24 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy
25 favoring disposition of cases on their merits—is greatly outweighed by the factors in favor
26 of dismissal discussed herein. Finally, the Court’s warning to a party that the failure to
27 obey the Court’s order will result in dismissal satisfies the “consideration of alternatives”
28 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d

1 at 1424. The Court's order requiring Plaintiff to update their address explicitly stated that:
2 "Failure to comply with this rule may result in dismissal of this action." (ECF No. 13.) Thus,
3 Plaintiff had adequate warning that dismissal would result from noncompliance with the
4 Court's order to update their address. Thus, Plaintiff has failed to comply with this Court's
5 order to update their address, and this case should be dismissed accordingly.

6 For all these reasons, it is recommended that this action be dismissed without
7 prejudice based on Plaintiff's failure to update their address.

8 The parties are advised:

9 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of
10 Practice, the parties may file specific written objections to this Report and
11 Recommendation within fourteen days of receipt. These objections should be entitled
12 "Objections to Magistrate Judge's Report and Recommendation" and should be
13 accompanied by points and authorities for consideration by the District Court.

14 2. This Report and Recommendation is not an appealable order and any
15 notice of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the
16 District Court's judgment.

17 **I. RECOMMENDATION**

18 **IT IS THEREFORE RECOMMENDED** that this action be **DISMISSED** without
19 prejudice based on Plaintiff's failure to update their address in compliance with the Court's
20 order; and,

21 **IT IS FURTHER RECOMMENDED** that the Clerk of Court **ENTER JUDGMENT**
22 accordingly.

23 **DATED:** November 14, 2024.

24 
25 **UNITED STATES MAGISTRATE JUDGE**
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